

Course Outline

COURSE:	LAWS 3202 B– Intellectual Property
TERM:	WINTER 2023
PREREQUISITES:	1.0 Credit from LAWS 2201, 2202, 2501, 2502
CLASS:	Day & Time: Tuesdays 11:35 am – 2:25 pm Room: Please check Carleton Central for current room location.
INSTRUCTOR:	Dr. Mohammad Hasan
TEACHING ASSISTANTS:	Our TA for this course, will assist me with marking related activities and will be your first point of contact . There may be group tutorials. TAs have office hours and contact them through Carleton email.
CONTACT:	Office D 488 Loeb Building Office Hrs: Every Tuesday 2:30 pm to 3:30 pm. Allow 36 hours for a reply if you send an email. No replies on weekends or evenings. Email: MohammadHasan@cunet.carleton.ca

CALENDAR COURSE DESCRIPTION

Critical assessment of copyright, patents, trademarks, trade secrets and other forms of intellectual property; regulation and governance of information technology including self-regulation, standard setting, licensing, competition policy and international dimensions.

COURSE DESCRIPTION

This course will primarily examine various aspects of intellectual property rights such as trademark, patent, copyright, and industrial design law and their protections. The course will also involve discussions about policy analysis. We will see how intellectual property laws and policies are framed by different actors like public, private, and commercial, which, we may know, intervene our access to daily uses of creative works, new products, other goods, and services. Moreover, we will analyse political, social, economic and cultural underpinnings of intellectual property in Canada and throughout the world. We will also examine the role played by international law and specifically by international economic law in protecting intellectual properties. In addition, students should also be able to assess why protection of intellectual property is important for both consumers and holders of intellectual property rights.

COURSE MODALITY & TECHNICAL REQUIREMENTS

This course is an in-person course where the instructor and students share information, ideas, and learning experiences through direct interaction in a classroom. Although it is an in-person class, most of the course contents and assessments will be completed on Brightspace. Students are expected to remain up to date with the deadlines and due dates provided by the instructor.

LEARNING OBJECTIVES

Upon successful completion of the course, students will be able to:

- Demonstrate an understanding of the history of intellectual property rights.
- Analyse rationales of protecting intellectual property rights.
- Read, summarize and examine various aspects of intellectual property rights and policies;
- Critically evaluate issues affecting the protection of intellectual property rights in Canada and around the world.
- Investigate legal frameworks of some of the social, political, economic and cultural issues that are at the heart of contemporary struggles over intellectual property in Canada and around the world.

REQUIRED TEXTS

There is no required coursepack or textbook for this course.

Most of the required readings will be available through the Brightspace page and ARES system.

SUPPLEMENTARY TEXTS

As we proceed, additional related readings may be posted throughout the semester. We will also the World Intellectual Property Organization (WIPO) open access resources.

EVALUATION

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

Attendance and Participation: 10%

Group Presentation and Written Submission (1 for each group): 15%

Reading reflection (10): 15%

Reading Quizzes (3 out of 4): 15%

In class Film Analysis (1): 15% [February 7, 2023]

Take-home Exam: 30% [During the exam period]

Total: 100%

All components must be successfully completed in order to get a passing grade

Attendance and Participation: 10%

Your attendance will be counted on for this course. Also, your participation will be assessed during discussions and presentations.

Group Presentation and Written Submission: 15%

Every week a group will present on required readings of the given week. The presenters of the group will facilitate a small discussion with some discussion questions. Participants may ask questions for any clarification. Each group will have at least 30 minutes to present and facilitate the discussion. The purpose of your presentation is to review and analyze the main arguments and themes in the week's readings and then encourage class discussion. This is a great opportunity for both students and instructors to communicate with each other and analyze the topics more effectively. The presentations will begin in the second class. Scheduling presentations will be done in the first seminar class. You need to address the following questions while presenting:

- Who is/are the author/s of the reading/s, what type of material is it, where was it published or circulated?
- What is the topic? Make a summary.
- What is the main argument the author/s makes?
- What is the nature of the problem that the author is trying to address?
- How are you as the reader/viewer being addressed by the author/s?
- What assumptions is the author/s making about the nature of property or intellectual property?
- What are the assumptions made in the piece about who holds power and who does not?
- How do these assumptions and framing compare and contrast with those in the other readings for that week?

The oral presentation worth 10%

In addition to the presentation, you are as a group required to submit a critical reflection of your works and the presentation slide (in a single document) based on the questions posed above for your presentation. Please send your critical reflection (one reflection per group) via email or submit it in class. Your written work should be between 300 and 500 words or two pages.

The critical reflection worth 5%.

Discussion Forums/reading Responses (15%):

To get more engaged with the course readings and classes, you are expected to write a 250-word summary of an assigned reading of your choice that includes at least one discussion question which may be discussed during the presentations or other times. The summary and discussion questions must be posted on Brightspace by 6 pm every Monday [the day before the class]. You are welcome to write more questions. The questions should be thought-provoking and insightful which can open fruitful conversations/discussions for the seminar. Throughout the semester, you are expected to submit at least

10 posts total. At the end of the term, discussion post grades will be the average grade for all posts for the term.

Reading Quizzes: 15%

For assessing a better understanding of the reading materials, you will be required to complete some online quizzes. The quizzes may be comprised of true/false, multiple-choice, or other forms of quiz questions. There may be 10 quiz questions you should answer. A total of 4 quizzes will be available and you must attend at least 3 quizzes. Each of the quizzes is worth 5%, for a total of 15% of the total grade. To get the full 5%, you must have all correct answers. So, 0.5 point for each correct answer and no deduction for the wrong answer. You can attempt a quiz once only. Missed quizzes cannot be made up.

The quizzes are timed but you will have a three-day period to complete each quiz. The quizzes will be posted on Brightspace on Saturdays before 11:59 pm and you can complete each quiz any time before the due time (Tuesday before 9 am). For example, the FIRST quiz will be posted on Brightspace on Saturday (January 28) before 11:59 pm, and you can complete the quiz any time before 11:59 pm on January 31. This example applies to all assigned quizzes. **More information is outlined in the weekly class schedule.** Please ensure that you have a secure and reliable internet connection when completing the quizzes as they will be timed. Start your quiz after reading the weekly reading and lecture materials. Once the quiz starts online, students will have 30 minutes to complete all quiz questions. They will be marked automatically, and students will receive their results through Brightspace.

In-class Film Analysis: [15%]

On **February 7, 2023**, we will view the documentary *TPB: AFK (The Pirate Bay: Away From Keyboard)* in class. You will receive a question sheet to be completed during class time and submitted at the end either in hard copy or electronically on Brightspace. The questions will require a working knowledge of the content, concepts and ideas from the readings and lecture(s) pertinent to copyright and to the intellectual property justifications and critiques. There will not be enough time both to do the readings and the worksheet during class, so I recommend reading, highlighting and taking notes on key elements of the course material in advance. This film is available for free online and if you would like to watch it in advance.

You will have 75 minutes to write the film analysis. The length of the analysis should be between 500 and 1000 words. If you miss a class submission and want to submit it later online, there will be 50% deduction on the first day (the analysis will be assessed out of 10 points instead of 20 points) and for each extra day, there will be 10% deduction. So, make sure you come to the class to get your analysis assessed properly.

Final Exam (30%):

The final exam will be in essay format. You will be asked to answer two to three long questions during the examination period. More information regarding the final exam will be posted on Brightspace later.

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

Late Penalty

Late submission will be penalized. Assignments submitted later than the due date will be penalized 5% per day of the total value of the assignment. For example, if an assignment worth 25% of the total course grade is a day late, 1 point out of 20 (or 5% per day) will be deducted.

Extension

The granting of extensions is determined by the instructor, who will confirm whether an extension is granted and the length of the extension. For requests for extensions lasting less than 7 days, please complete the form at the following link and submit it to the instructor prior to the assignment due date: <https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf>.

Extensions for longer than 7 days will normally not be granted. In those extraordinary cases where extensions lasting longer than 7 days are granted, the student will be required to provide additional information to justify the longer extension (up to a maximum of 14 days).

SCHEDULE

There are three types of learning strategies that will be followed for this course. First, students are responsible for all assigned readings. I suggest students read the required reading material before each scheduled lecture. Secondly, students should review lecture slides posted on Brightspace. Thirdly, students will participate in all assessments and evaluations.

Important Dates:

January 9, 2023	Winter Term Begins. Winter Classes Begin
February 20-24, 2023	Winter Term Reading Break, No Classes
April 12, 2023	Winter Term Ends
April 15-27, 2023	Formally Scheduled Final Exams may be held

Weekly Schedule

Please read the assigned material before each lecture and review it again after each lecture. Students are responsible for all assigned readings. Most of the readings are posted on Brightspace.

Week 1 [January 10] Introduction

Meet and greet, an overview of the course, key concepts, readings, and assignments
Group presentation schedule will be created in the class.

Week 2 [January 17]: What is Intellectual Property?

Readings:

Voss, Trina, Arvin S. Paranjpe, Travis G. Cook, and Nicole DW Garrison, “A short introduction to intellectual property rights.” (2017) 20.2 *Techniques in Vascular and Interventional Radiology*: 116-120.

Hettinger, Edwin C., “Justifying Intellectual Property” in John Haldane, ed. *Philosophy and Public Affairs*, (New York: Cambridge University Press, 2001) pp. 31-52.

Spinello, R. A., “Intellectual property rights.” (2007) *Library hi tech*.

Group 1 presentation

Week 3 [January 24]: Contesting Ideas of Intellectual Property

Readings:

Chander, Aupam and Madhar Sunder, “The Romance of the Public Domain” (2004) 92 *California Law Review*: 1331-1369.

Weinhold, Diana, and Usha Nair-Reichert, “Innovation, inequality and intellectual property rights.” (2009) 37.5 *World Development*: 889-901.

Group 2 presentation

Week 4 [January 31]: Copyright I

Readings:

Mopas, Michael and Amelia Curran, “Translating the Sound of Music: Forensic Musicology and Visual Evidence in Music Copyright Infringement Cases” (2016) 31.1 *Canadian Journal of Law and Society*: 25-46.

Jaszi, Peter, “On the Author Effect: Contemporary Copyright and Collective Creativity” (1992) 10.2 *Cardozo Arts and Entertainment Law Journal*: 293-320.

Kaye, Ben, “Childish Gambino’s ‘This is America’ Draws Accusations of Plagiarism” (2018) on *Consequences of Sound*

<https://consequence.net/2018/06/childish-gambino-this-is-america-plagiarism/>

Group 3 presentation.

Quiz 1 due today. This quiz covers Week 2 and 3 readings.

Week 5 [February 7]: Thinking About Pirates (Film Screening): Copyright II

Readings:

Reynolds, G, “Pirate Bay on English Bay-Bittorrent File Sharing and Copyright Infringement in the Supreme Court of British Columbia.” (2010) 43 *UBCL Rev.*: 193.

Nick, “Internet Pirates Will Always Win” in *The Sunday Review of The New York Times*, August 4, 2012.

<https://www.nytimes.com/2012/08/05/sunday-review/internet-pirates-will-always-win.html>

Film Screening and In-Class Film Analysis

Klose, Simon (dir.), *TPB AFK: The Pirate Bay Away from the Keyboard* (2013)

Please ensure you have read the assigned readings of this week. Hettinger, Edwin C., “Justifying Intellectual Property” can be your help to analyse further.

Week 6 [February 14]: Trademark

Readings:

Shand, Peter, “Scenes from the Colonial Catwalk: Cultural Appropriation, Intellectual Property Rights and Fashion” (2002) 3 *Cultural Analysis*: 47-88.

Elliott, Charlene, “Colour™ Law and the Sensory Scan” (2006) 8.4 *MCJ: A Journal of Media and Culture*.

Bhasin, Kim, “Can you identify these 12 brands by their trademarked colors alone?” in *Business Insider* (February 1, 2012).

<https://www.businessinsider.com/can-you-identify-these-12-brands-by-their-trademarked-colors-alone-2012-2#caterpillars-shade-of-yellow-is-featured-in-the-triangle-on-its-logo-the-shade-of-its-construction-equipment-is-often-seriously-faded-due-to-the-nature-of-their-work-12>

Group 4 presentation

Reading Break [February 20-24- No class]

Week 7 [February 28]: Industrial Design

Readings:

Mitchell, R. E., “Protection of Industrial Designs in Canada.” (1989) 19 *U. Balt. L. Rev.*: 403.

Hemphill, C. Scott and Jeannie Suk, “Law, Culture and Economics of Fashion” (2009) 61 *Stanford Law Review*: 1147.

Norman, Donald, “Three Levels of Design: Visceral, Behavioral and Reflective” in *Emotional Design: Why We Love (or Hate) Everyday Things*, Basic Books. *Objectified* (2009), Dir. Gary Hustwit

Group 5 presentation.

Quiz 2 due today. This quiz covers Weeks 6 and 7

Week 8 [March 7]: Patents I

Readings:

Bodrin, Michele and David K. Levine, “The Case Against Patents” (2013) 27.1 *The Journal of Economic Perspectives*: 3-22.

Lexchin, J. “Canada and access to medicines in developing countries: intellectual property rights first.” (2013) 9. 1 *Globalization and health*: 1-8.

Oliver, John, “On Patents,” *Last Week Tonight* (April 19, 2015)

https://www.youtube.com/watch?v=3bxcc3SM_KA

Group 6 presentation

Week 9 [March 14]: Patents II**Readings:**

Hanson, Mark J., “Patenting Genes and Life: Improper Commodification?” in *Who Owns Life?* (David Magnus, Arthur Caplan, and Glenn McGee, eds.), (Amherst, NY: Prometheus Books, 2002): 161- 174.

Halbert, Debora J., “Patenting the Body: Resisting the Commodification of the Human” in *Resisting Intellectual Property*, (London: Routledge, 2005): 112-134.

Sataline, Suzanne and Ian Sample, “Scientist in China Defends Human Embryo Gene Editing” in *The Guardian*, November 2018.

<https://www.theguardian.com/science/2018/nov/28/scientist-in-china-defends-human-embryo-gene-editing>

Group 7 presentation.

Quiz 3 due today. This quiz covers weeks 8 and 9 readings.

Week 10 [March 21]: Trade Secrets and Artificial Intelligence**Readings:**

Courage, N., & Calzavara, J. “Protecting Trade Secrets in Canada.” (2015) 5.9 Cold Spring Harbor Perspectives in Medicine.

Davies, C. R., “An evolutionary step in intellectual property rights—Artificial intelligence and intellectual property.” (2011) 27.6 Computer Law & Security Review: 601-619.

Hagen, G. R., “AI and patents and trade secrets.” in *Artificial Intelligence and the Law in Canada* (Toronto: LexisNexis Canada, 2021).

Leswing, K., “Former Apple engineer accused of stealing automotive trade secrets pleads guilty” in CNBC, August 22, 2022.

<https://www.cnbc.com/2022/08/22/former-apple-employee-xiaolang-zhang-pleads-guilty-.html>

Group 8 presentation**Week 11 [March 28]: Trade Related aspects of Intellectual Property Rights (TRIPS)****Readings:**

Chapter 14: Michael J. Trebilcock, Robert Howse, Antonia Eliason, *The Regulation of International Trade*, 4th ed., (London and New York: Routledge, 2012).

WTO, “The TRIPS Agreement and COVID-19” Information note (2020)

Group 9 presentation**Week 12 [April 4]: Intellectual Property Rights and Indigenous Peoples [Wrap up the course]****Readings:**

O'Connor, Bernard, "Protecting Traditional Knowledge: An Overview of a Developing Area of Intellectual Property Law" (2003) 6:5 J World Intell Prop 677.

Kasih, D. P. D. et al, "The Exploitation of Indigenous Communities by Commercial Actors: Traditional Knowledge and Traditional Cultural Expression." (2021) 8.4 Journal of Ethnic and Cultural Studies: 91-108.

Bear Nicholas, Andrea, "Who Owns Indigenous Cultural and Intellectual Property?" (2017) in *Policy Options* (June 27)

<https://policyoptions.irpp.org/magazines/june-2017/who-owns-indigenous-cultural-and-intellectual-property/>

Group 10 presentation

Quiz 4 due today. This quiz covers Weeks 10, 11, and 12.

Winter 2023 Sessional Dates and University Closures	
<i>Please find a full list of important academic dates on the calendar website:</i> https://calendar.carleton.ca/academicyear/	
January 9, 2023	Winter term begins.
January 20, 2023	Last day for registration and course changes (including auditing) in full winter and late winter courses.
February 20, 2023	Statutory holiday. University closed.
February 20-24, 2023	Winter break. No classes.
March 15, 2023	Last day for academic withdrawal from full winter, late winter, and fall/winter courses.
April 7, 2023	Statutory holiday. University closed.
April 12, 2023	Winter term ends. Last day of full winter, late winter, and fall/winter classes.
April 15-27, 2023	Final examinations in full winter, late winter, and fall/winter courses will be held. Examinations are normally held all seven days of the week.
April 27, 2023	All final take-home examinations are due on this day.

University and Departmental Policies

DEPARTMENT POLICIES AND REGULATIONS

Please review the following webpage to ensure that your practices meet our Department's expectations, particularly regarding standard departmental protocols and academic integrity requirements:

<https://carleton.ca/law/student-experience-resources/>.

PLAGIARISM

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence. More information on the University's Academic Integrity Policy can be found at: <https://carleton.ca/registrar/academic-integrity/>.

ACADEMIC ACCOMMODATIONS

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

Pregnancy Obligation

Write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For accommodation regarding a formally-scheduled final exam, you must complete the [Pregnancy Accommodation Form](#).

Religious Obligation

Write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details [click here](#).

Academic Accommodations for Students with Disabilities

[The Paul Menton Centre for Students with Disabilities](#) (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or pmc@carleton.ca for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your Letter of Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (if applicable). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (if applicable).

Survivors of Sexual Violence

As a community, Carleton University is committed to maintaining a positive learning, working and living

environment where sexual violence will not be tolerated, and where survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: <https://carleton.ca/equity/sexual-assault-support-services>

Accommodation for Student Activities

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. Read more here: <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>.

For more information on academic accommodation, please visit: <https://students.carleton.ca/services/accommodation/>.